

United States Court of Appeals
For the Eighth Circuit

No. 14-2362

Frederick P. Davis

Plaintiff - Appellant

v.

Terry Webb, FUM, Potosi Correctional Center; Ian Wallace, Assistant Warden,
Potosi Correctional Center; Timothy R. Lancaster, AIO, Potosi Correctional Center

Defendants - Appellees

Appeal from United States District Court
for the Eastern District of Missouri - St. Louis

Submitted: February 3, 2015
Filed: February 4, 2015

Before SMITH, GRUENDER, and BENTON, Circuit Judges.

PER CURIAM.

Missouri inmate Frederick Davis appeals the district court's¹ adverse grant of summary judgment in his 42 U.S.C. § 1983 suit, in which he alleged defendants

¹The Honorable John A. Ross, United States District Judge for the Eastern District of Missouri.

retaliated against him by finding him guilty of a conduct violation and placing him in administrative segregation (ad seg) for over six months. For reversal, Davis argues (1) the court improperly resolved disputed factual issues; (2) defendants' summary judgment motion incorrectly referred to factual allegations in a superseded complaint; and (3) the court wrongly concluded that, based on his failure to comply with a local rule, he had not succeeded in controverting defendants' statement of material facts. Finding that these arguments fail, we affirm.

Upon de novo review, see Rochling v. Dep't of Veterans Affairs, 725 F.3d 927, 937 (8th Cir. 2013), we first conclude that defendants' reference to a superseded complaint was harmless, because the superseded complaint and the operative complaint contained identical factual allegations. Second, the district court did not abuse its discretion in applying its local rules to limit the court's consideration of the statements in Davis's response to those statements as to which there was evidentiary support. See Fed. R. Civ. P. 56(e); Nw. Bank & Trust Co. v. First Ill. Nat'l Bank, 354 F.3d 721, 725 (8th Cir. 2003) (standard of review). Third, we find no support for Davis's argument that the court resolved factual issues in defendants' favor. Finally, based on the evidence before the district court, summary judgment was proper. See Hartsfield v. Nichols, 511 F.3d 826, 829 (8th Cir. 2008) (defendant may successfully defend retaliatory discipline claim by showing "some evidence" that discipline was imposed for actual rule violation); Rouse v. Benson, 193 F.3d 936, 941 (8th Cir. 1999) (no constitutional right to incite other inmates to file grievances or assist other inmates in filing lawsuits).

Accordingly, we affirm. See 8th Cir. R. 47B.
